



AN ACT REVISING ACCESS TO MILITARY DISCHARGE RECORDS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 7-4-2614, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Release of military discharge documents -- rulemaking. (1) Subject to subsection (2), the Montana veterans' affairs division shall release on request a military discharge document that is dated 62 years or more before the date on which the request is made and that is a public record pursuant to 5 U.S.C. 552a and implementing federal regulations.

(2) (a) A request for a military discharge document under this section must be made on a form prescribed by the board and contain enough information to make the document discoverable.

(b) If a military discharge document contains a social security number, that number must be redacted before the document is released.

(3) The board may adopt rules to administer this section.

Section 2. Section 7-4-2614, MCA, is amended to read:

"7-4-2614. Records of certificates of discharge from military service. (1) It is the duty of the county clerk of any county of this state to record, without charge and in a book kept for that purpose, the certificate document of discharge of an honorably discharged person who served with the United States forces upon that person's request. It is not the clerk's duty to file the certificate document.

(2) A record of a military discharge certificate is confidential information as defined in 2-6-1002 and is protected from disclosure, except as provided in this section. A military discharge certificate document may be disclosed only to:

(a) the service member for whom the certificate document was recorded;

(b) if the service member is deceased, the next of kin of the service member or a mortuary, as defined in 10-2-111, for the purposes of securing the burial benefits to which the service member is entitled;

(c) a veterans' service officer or a veterans' service organization, as defined in 10-2-111;

(d) the veterans' affairs division of the Montana department of military affairs; ~~or~~

(e) any person with written authorization from the service member or from the next of kin of the service member, if the service member is deceased; or

(f) a person who presents a written request for a military discharge document with a discharge date that is 62 years or more prior to the date on which the request is made and that is a public record under 5 U.S.C. 552a and implementing federal regulations. However, if the military discharge document contains a social security number, that number must be redacted before the document is released.

(3) If an original discharge ~~certificate~~ document was inadvertently filed and the county clerk still retains the ~~certificate~~ document in its original form, upon the written request of the service member or of the service member's next of kin if the service member is deceased, the clerk shall return the filed ~~certificate~~ document to the service member or to the service member's next of kin if the service member is deceased.

(4) For purposes of this section:

(a) "file" means to store in original form; and

(b) "record" means to make and keep a copy from which a certified original copy can be reproduced."

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 10, and the provisions of Title 10 apply to [section 1].

Section 4. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 491, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2021.

President of the Senate

Signed this _____ day
of _____, 2021.

HOUSE BILL NO. 491

INTRODUCED BY M. FUNK

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